

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 2638 – HB 3124

April 4, 2012

SUMMARY OF AMENDMENT (015383): Deletes all language after the enacting clause. Requires a judge to award costs and reasonable attorneys' fees to the prevailing party in a civil proceeding in which the court grants a motion to dismiss for failure to state a claim upon which relief may be granted. Specifies that costs include, but are not limited to, court costs, attorneys' fees, court reporter fees, interpreter fees, and guardian ad litem fees. Requires the award to be made after all appeals of the issue of the granting of the motion to dismiss are exhausted. Prohibits the court from requiring a party to pay costs in excess of \$10,000 in any such single lawsuit. Establishes procedure for awarding costs in lawsuits with multiple moving parties. Exempts actions by or against the state, other governmental entities, or public officials acting in their official capacity under color of law; any claim that is dismissed by the granting of a motion to dismiss that was filed more than 60 days after the moving party received service of the complaint; any claim that the party against whom the motion to dismiss was filed withdrew or in good faith amended; pro se litigants who have not acted unreasonably in bringing or refusing to withdraw the claim; specified non-frivolous claims brought in good faith; and any claim for which relief could be granted under a law in effect at the time the motion was filed.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions applied to amendment:

- According to the Administrative Office of the Courts, new guidelines for the award of costs and attorneys' fees in specified civil cases will not affect caseloads. Therefore, the impact is not significant.
- The proposed legislation exempts actions by or against the state, other governmental entities, or public officials acting in their official capacity. As a result, there will not be any significant change to any costs awarded against the state or local governments.

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CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink, appearing to read "Lucian D. Geise". The signature is fluid and cursive, with the first name "Lucian" written in a larger, more prominent script than the last name "Geise".

Lucian D. Geise, Executive Director

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